

**DISTRICT COURT OF THE UNITED STATES  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:18-cv-00046-FDW**

**JOHNNIE D. ALLEN,**

**Plaintiff,**

**vs.**

**FNU POOLE, et al.,**

**Defendants.**

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**ORDER**

**THIS MATTER** is before the Court on the Plaintiff's "Notice of Voluntary Dismissal" [Doc. 19], in which the Plaintiff moved for voluntary dismissal of this action. The Court construes Plaintiff's filing as a motion for voluntary dismissal under Rule 41 of the Federal Rules of Civil Procedure.

Under Rule 41, Plaintiff could have filed a notice of dismissal without a court order. See FED. R. CIV. P. 41(a)(1)(A)(i) (stating that the plaintiff may take a voluntary dismissal without a court order "before the opposing party serves either an answer or a motion for summary judgment"). Because an Answer has been filed in this matter, the Court grants Plaintiff's motion for voluntary dismissal under Fed.R.Civ.P.41(a)(1)(A)(i).

**IT IS THEREFORE ORDERED** that:

1. Plaintiff's Notice of Voluntary Dismissal [Doc. 19] is **GRANTED**, and this action is dismissed without prejudice.
2. The Clerk is instructed to terminate this action.

**IT IS SO ORDERED.**

Signed: May 8, 2019



Frank D. Whitney  
Chief United States District Judge

